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POLITICAL, EVOLUTION AND CIVIL SERVICE
REFORM.

It will be remembered that the direct improvement of the civil service was but the lesser part of the benefits expected from civil service reform. When the Act of 1883 was passed it was believed, and with good reason, that the operation of the law would set up such tendencies toward improvement in the character of our politics that its beneficial results would be felt throughout the whole frame of government. The result has been a bitter disappointment. Instead of an increase of moderation, order, judgment and control in the management of public affairs, concurrently with the extension of civil service reform, there was an increase of passion and recklessness. Tariff legislation has been more frequent and radical than during any other period of our history, and public interest in the subject has abated more through fears of the process than from satisfaction with what has been done. A scheme for compelling the treasury to purchase the output of the silver mines shook the national credit and brought on a financial panic. Meanwhile Congress appeared to have become a mere tool in the hands of interests banded together to raid the national treasury, so that neither national needs

nor treasury deficits and impending bankruptcy, could check projects of expenditure or induce provision of revenue to meet them. The increase in the bonded indebtedness which took place is largely attributable to this cause. In the period from 1883 to 1898, inclusive, the expenditures, leaving out of account the interest on the public debt and the cost of the army and navy, increased from \$142,053,186 to \$341,655,884. That is to say, the expenditures have increased 140 per cent while the population has increased 37 per cent.¹

While such has been the character of national legislation, the tone has been equally extraordinary. The Senate descended to inconceivable depths of degradation during the struggle over the repeal of the silver purchase law. The House of Representatives has behaved with greater decency, but the fact has been plain that this has not been due to any improvement of its natural inclinations, but to arrangements made for suppressing them, through the development of absolute powers in the speakership. At the same time certain remarkable manifestations of deep changes in the character of our politics appeared. Their tendencies became distinctly retrogressive, sinking them to a lower level and inflaming their worst propensities. Factional animosity reached such a furious pitch that it burst the bonds of party organization, and the unprecedented spectacle was displayed of a national convention hooting the name of a president elected by the party which it claimed to represent. A still graver portent than all these things was the appearance of a strange distemper of public sentiment. The party enthusiasm which is the ordinary mood of the masses of the people gave way in large measure to ill humor with the constitution itself. Revolutionary programs of political action commanded an alarmingly large

¹ The figures are obtained from the Statistical Abstract published by the Treasury Department. Had the expenditures of the Army and Navy departments been included, the percentage of increase would have been greater.

following. The very foundations of social order were shaken and the state of the times occasioned deep anxiety among all thinking men. So that, at the close of a period marked by a rapid extension of civil service reform, the dominant mood among those who reflect upon the course of events is certainly not one of exultation. On the contrary, public attention is challenged by remarkable expressions of pessimism in regard to the republic, its people and its institutions. One may detect the flow of a current of scepticism as to whether the progress of the nation has true moral worth. A feeling of despondency as regards the future of popular government is discernible, expressing itself in a scornful, supercilious and malignant tone of criticism upon public affairs, or in an attitude of contemptuous aversion for our politics.

How are we to account for such a strange set of phenomena? The laws which govern the activities of politics are too abstruse to be easily discoverable. Even such a fundamental fact of modern politics as government by party has yet to be elucidated, and we are just beginning to appreciate the fact that party is a principle of social regimentation, akin to those instinctive processes of thought and feeling by which authority is produced and governmental functions created in social aggregates, prior to the beginnings of national consciousness and of political development. It has been said that man can not concurrently produce a new social order and trace out the laws by which it is governed, and that this is true all history attests. A century or so must elapse before the type of government which America is working out can be appreciated and the formative process be fully revealed. But applying to the problem before us the empirical methods which are all that are now open to our use, a sequence of causation may be traced that will enable us to arrive at some understanding of the events of the period.

It is impossible, I think, to avoid the conviction that

there is a connection between civil service reform and some of the most alarming phenomena of our politics during the past ten years. This connection most plainly appears in the course taken by financial agitation. It is the rule of our politics that when the party in power is forced to meet new issues, the position it takes is occupied for it by executive policy, and executive influence is the factor by which the adjustment of party interests to the new conditions is accomplished. When the Democratic party was confronted by the silver issue, it seemed that events would take their usual course. The historical connection of the Democratic party with the establishment of the gold standard, and the fact that the free silver propaganda was at first almost wholly a Republican party interest, indicated the direction of the policy of the Democratic administration and smoothed the way. The conditions were such that it might have been supposed that President Cleveland would have been as successful in determining party policy as was President Grant in the case of the greenback movement, and with less difficulty. For several years the course of events tended that way. On June 5, 1890, 102 Democrats in the House voted in favor of Bland's free coinage bill and only 13 against it. On March 24, 1892, 81 Democrats voted against the same bill. On July 13, 1892, when Mr. Bland asked for an order to take up the free coinage bill which had passed the Senate, there were 94 Democrats against it. On August 28, 1893, there was an actual majority of Democrats against free coinage, 114 voting against Bland's motion to 100 for it. During the struggle in the Senate over the passage of the bill repealing the silver purchase law, the power and influence of the presidential office were exerted in ways that were decisive. But as the fact was developed that the president was prepared to suffer the loss of party connection rather than surrender his individual convictions in regard to civil service reform, the situation changed completely. The free silver faction won a sweeping

victory and captured the Democratic party organization. The connection between the civil service reform policy of the president and the violent recrudescence of free silver sentiment in the Democratic party was too plain to be overlooked. The New York *Evening Post* in its issue of July 16, 1896, justly remarked:

"The historian who shall look carefully into the causes of the free silver movement in the United States in the year 1896 will find that one of its most potent elements was the jealousy and hatred of the Democratic leaders for President Cleveland. . . . It began back in his first term when he refused to consider that one of his chief duties as a Democratic president was to satisfy Democratic hunger for office."

It is melancholy to reflect that a measure expressly designed to elevate the tone of our politics should have reacted so disastrously upon them, but I think that this was only the natural result of the methods adopted in the extension of civil service reform. The constitutional method for the propagation of reform is by the education of public sentiment so as to influence the constitutional agencies of public opinion, and in this way any progress that may be effected is adjusted to political conditions. The attitude of a wise statesman was that assumed by President Grant. He was sincerely attached to the cause of civil service reform, but he always insisted that such a reform to be beneficial "must have the acquiescence of Congress as well as of the executive." For five years he urged the subject upon the consideration of Congress in his messages. Finally, in his annual message of December 7, 1874, he stated his position as follows:

"The rules adopted to improve the civil service of the government have been adhered to as closely as has been practicable with the opposition with which they met. The effect, I believe, has been beneficial upon the whole, and has tended to the elevation of the service. But it is

impracticable to maintain them without direct and positive support of Congress. Generally, the support which this reform receives is from those who give it their support only to find fault when the rules are apparently departed from. Removals from office without preferring charges against parties removed are frequently cited as departures from the rules adopted, and the retention of those against whom charges are made by irresponsible parties and without good grounds is also often condemned as a violation of them. Under these circumstances, therefore, I announce that if Congress adjourns without positive legislation on the subject of civil service reform, I will regard such action as a disapproval of the system, and will abandon it, except so far as to require examinations for certain appointees to determine their fitness. Competitive examinations will be abandoned altogether."

President Grant's action in abandoning an experiment which public opinion did not sustain through the constitutional agencies of its operation, was an acute disappointment to reformers, but looking back upon it with the advantage of a broader view of the whole state of our politics, we are able to see that by not breaking with his party he was able to accomplish great public benefits. The defeat of the greenback movement, the passage of the act for the resumption of specie payments, and the defeat of the Equalization of Bounties bill, were among the fruits of that policy just as much as was the reluctant abandonment of civil service reform.

The principle laid down by President Grant, that reform can be safely prosecuted no faster and no further than public sentiment sustains it and obtains political support for it, was carefully observed in the reform of the English civil service. The dependence of English government upon parliamentary support for its position is such that the maintenance of any course of public policy implies parliamentary acquiescence. In the case of civil service reform, it is

evident that special care was taken to keep in touch with public opinion as reflected in the attitude of parliament. The facts, as set forth in Mr. Eaton's work on "Civil Service in Great Britain," show that the reform was introduced by an Order in Council, but in deference to the state of parliamentary sentiment, "it was provided that the rules in each department were to be accommodated to the views of its head and the power of nominating and appointing, as then existing (but subject to the examinations), was not to be taken away by the rules." Mr. Eaton remarks that "it was really limited and not open examination that was at first introduced, and mainly a competition, perhaps, between those of the same party." The reasons which Mr. Eaton gives for the cautious and tentative measures preferred by the English reformers are well worth considering. He says (pp. 206, 207): "Their long experience had convinced them that all expectations of suddenly changing the character and tone of the sixty or more thousand persons who make up the civil service of Great Britain—a character and tone which were the growth of generations—are utterly chimerical. They felt that even the attempt to accomplish at once the full reform that was desired, would recoil upon them with disastrous effect. . . . Wise methods steadily and faithfully applied, which educate public opinion at the same time that they close the fountains of mischief, and not sweeping, revolutionary proceedings, which assume that the moral tone of a nation's politics can be changed by an assault or an exhortation, were in the opinion of the British public, the essential conditions of all administrative reform."

The first instalment of reform—which put appointments to the civil service on much the same basis as appointments to our Naval Academy or West Point—was introduced by the Order in Council of May, 1855. So successful were the reformers in working up public sentiment in favor of the new system that on April 24, 1856, the House of Commons

adopted a resolution approving the extension of the system. In 1860, the operation of the system was made the subject of a parliamentary inquiry through a committee of distinguished statesmen. This committee, while holding that the limited competition then existing did not produce as good results as might be obtained from open competition, said in their report: "In not advising open competition at once, as the only entrance to the public service, they are influenced by prudential reasons. They fear a recoil of public opinion, if too great changes are made hastily. In the interest of open competition itself, they advise a cautious advance toward its introduction." Not until 1870, did the government feel sufficiently sure of public support to abolish nomination and limited competition, and substitute open competition in their place. In 1874, another investigation took place, this time not under parliamentary orders, but by the action of the executive. That investigation showed that the system had been made too rigid in providing that the one who stood highest in the competition should have the first vacancy. Mr. Eaton remarks: "This was an inconvenient restriction needlessly imposed, and was not involved in the principle of competition. In some cases it too much curtailed a salutary liberty of choice." The process of bringing civil service reform in England to its permanent status covered nineteen years, but while progress was gradual it was sure. We are now finding out that "too swift arrives as tardy as too slow."

The beginnings of civil service reform in this country were as cautious as in England. The author of the Act of 1883 and its advocates were careful to give assurances that the measure was not intended to be sweeping in its operations. Senator Pendleton, who presented the bill, said that "it only applied to employes in the departments at Washington, and large offices employing over fifty clerks—not over ten thousand employes all told." In his report on the bill, he said: "This bill does not touch the question of

tenure of office or removals from office, except that removals shall not be made for refusing to pay political assessments or to perform partisan services. It leaves both where it finds them." These assurances turned out to have been misleading. Since obtaining the grant of authority conferred by the act, reformers have acted as if further caution were needless and as if all that remained to be done was to instigate the President to use the executive authority unflinchingly in extending the scope of the reform. So little averse were they to "sweeping, revolutionary proceedings," such as the English reformers deprecated, that their influence procured the executive order of May 6, 1896, which swept into the classified service over thirty thousand positions, with such disregard of practical considerations, that it became necessary to begin to make exceptions almost immediately, in order to keep the necessary machinery of government from being thrown out of gear. In England, the successive stages of civil service reform were carefully prepared and were connected with the development of parliamentary support. In this country, it is notorious that in the extension of the reform, the sentiment of the legislative branch was not conciliated, but defied. In his message of December 4, 1893, the President went so far as to tell Congress: "The law embodying this reform found its way to the statute book more from fear of the popular sentiment existing in its favor than from any love for the reform on the part of legislators, and it has lived and grown and flourished in spite of the covert as well as open hostility of spoilsmen. . . ." This admission that the extension of civil service reform has been an imposition upon our politics instead of being a gradual outgrowth from them, explains the superficial character of its effect and the dangerous reactions it has excited.

From mischiefs of such origin as I have indicated, American politics, like English politics, are ordinarily protected by their dependence upon the activities of public

sentiment for their supplies of force. But in matters falling within the compass of executive powers, it is possible for a president to pursue an individual policy regardless of consequences. This involves a risk to constitutional government, against which the high character and sincere patriotism of our presidents do not afford complete security, for the risk lies on the side of mistaken views of duty adopted under the influence of false but plausible theories of civic virtue. A theory of this kind has been framed and vigorously promulgated in connection with the extension of civil service reform. As originally conceived, the government rested upon a basis of prerogative, the general care and management of it being the duty of the president. "Our President," said Gouverneur Morris, when the office was being discussed in the constitutional convention, "will be the British Minister," and later on he remarked that in England "the Minister" was now "the real king." It was with this in mind that, during the first session of the Senate, Ellsworth of Connecticut, who had been a member of the constitutional convention, argued that in the form of legislation the president should be mentioned as a party to the enactment, because of "the conspicuous part he would act in the field of legislation, as all laws must pass in review before him and were subject to his revision and correction." It is evident that the Fathers had in mind the old-fashioned English king, who himself conducted his administration, before the days of ministerial domination based upon parliamentary interest. This ideal—which was never fully attained in practice, although Jefferson came pretty close to it in his first administration—was obscured by the growth of the system of choosing presidential electors by popular election, and was definitely overthrown by the election of Jackson and the establishment of the party convention system. Concurrently with this process of constitutional development, an appropriate conception of the presidential office took shape. According to it, presidential

duty was subject to party obligation, so that the power and patronage of the president were to be regarded as a party trust, to be exercised for public ends, as seen and approved by party sentiment, under his instruction and advice. This is the theory which until the era of civil service reform governed the action of our presidents. It produced its ideal type of president in Abraham Lincoln. Whatever may be the defects and disadvantages of this theory, it is a necessary phase of political development, for it rests upon the incontestible fact that under existing political conditions party mediation supplies administrative connection between the executive and legislative branches of the government, and furnishes public opinion with an organ of control which although imperfect is certainly better than none at all.

This theory of presidential duty is quite acceptable to the mass of the people. Indeed, it is the only one which they entertain. The complications of our constitutional scheme are but hazily perceived by the people. Their disposition is to resolve all difficulties by the one solution that if we elect a good president he will see that things go as they should. But this theory was not acceptable to impatient reformers because it tended to restrict the advance of civil service reform by conditioning it upon the extent to which party sentiment could be impressed in its favor. This restraint was avoided—and at the same time the factor of safety was eliminated—by the doctrine that the highest duty of a president was to assert and maintain his independence of party connection when that conflicted with his individual convictions of duty. This doctrine assumed that legislative concurrence ought to attend an administration conducted upon such principles, but it was held that if such concurrence did not follow it was not the fault of the president, but of our politics, and the consequences, however deplorable, were in no respect chargeable to him. He had done his duty and was not to be blamed if Congress did not do its duty.

This doctrine finds no basis except upon the theory that upon Congress rests the whole responsibility for the character of legislation, the responsibility of the president being confined to the exercise of the veto power, the faithful execution of the laws, and the maintenance of good discipline in the public service. This theory is contradicted by all the facts of our constitutional history. The conversion of the presidency into the headship of a bureaucracy, with only a hortative relation to Congress, has subverted the constitutional basis of the government, and has given an irregular operation to the play of political force, with the pernicious results which the nation has experienced. In the language which Burke applied to a similar situation: "This is the fountain of all those bitter waters of which, through an hundred different conduits, we have drunk until we are ready to burst."

It is not until we take into consideration the effect of this theory in modifying conceptions of the responsibility of the presidential office, that we are able to account for the renunciation of presidential initiative and control in details of legislation, that is such a marked feature of the middle of the period under review. Senator Sherman in his *Memoirs* attributes the passage of the Silver Purchase Act of 1890 to the inaction of the president. He says: "A large majority of the Senate favored free silver; and it was feared that the small majority against it in the other house might yield and agree to it. The silence of the president in the matter gave rise to an apprehension that if a free silver bill should pass both houses, he would not feel at liberty to veto it. Some action had to be taken to prevent a return to free silver coinage, and the measure evolved was the best obtainable." Such ignorance on the part of the chairman of the finance committee, of the policy of a president elected by his own party, on such a vital issue, is an event without precedent in our constitutional history, and when such a presidential attitude is

contrasted with former ideals of presidential duty and responsibility, it is apparent that a great change had taken place in the functions of the presidency. Another striking instance of this fact is presented by the passage of the Disability Pension Act of March 4, 1890. A bill of that title passed by the Fiftieth Congress was vetoed by President Cleveland, and his action was condemned by the platform upon which his successor was elected. But the bill as it finally became law was a different measure. The vetoed bill according to the chairman of the committee which framed and reported it, provided for "but one pension, and that pension is one of \$12.00 a month and is given for a total inability to procure a subsistence by daily labor." The committee estimated that the number of beneficiaries could not exceed 100,000 nor the annual cost \$12,000,000. In the bill as finally passed, widows and minors were included among its beneficiaries, partial as well as complete disability, from any cause, to earn a support by manual labor, was prescribed as the condition upon which the pension was granted, and so a measure proposed as a means of keeping destitute veterans out of the almshouse was made the means of giving pensions to men earning large incomes by other than manual labor. Instead of 100,000 beneficiaries, the number on June 30, 1898, was 539,638; and the expenditure instead of being \$12,000,000, exceeded \$66,000,000 in 1897. I do not see how a president inspired by the sense of responsibility under which President Grant acted, could have failed to exert himself to confine the measure to its original proportions, or, if he could not do that, to interpose his veto, as President Grant did in the case of the Equalization of Bounties bill.

The conclusion to which these considerations lead is that the period under review is one of public malady due to aberrations from the normal course of our politics. In its general character the period is analogous to that which took place in English politics when an attempt was made to

disregard party and found administration upon abstract principles of right. The theory of presidential responsibility to which I have referred, which prescribes purity of conduct as its complete boundary of duty, is the Tory doctrine which was advocated by Bolingbroke and which was subjected to destructive analysis by Burke in his "Thoughts on the Cause of the Present Discontents." Some of Burke's remarks upon the consequences read as if they had been written with an eye upon the situation in this country. What could be more apposite than this?

"When the people conceive that laws and tribunals, and even popular assemblies, are perverted from the ends of their institution, they find in those names of degenerated establishments only new motives to discontent. . . . A sullen gloom and furious disorder prevail by fits. . . . A species of men to whom a state of order would become a sentence of obscurity are nourished into a dangerous magnitude by the heat of intestine disturbances; and it is no wonder that by a sort of sinister piety, they cherish in their turn, the disorders which are the parents of all their consequence. Superficial observers consider such persons as the cause of the public uneasiness, when in truth they are nothing more than the effect of it."

At such junctures the special measures or the particular candidacies which the people may support, are merely incidental. Criticism upon them, however true and forcible, is beside the mark. What the people really demand, prompted by a political instinct which does not deceive them, is efficient leadership, and they model their opinions to suit the emergencies of the situation. A people of the same stock with those who seized the leadership of even so worthless a demagogue as John Wilkes, to overthrow the same principles of government as those which have been imposed upon American politics, are not likely to trouble themselves much about base metal in any instrument they may find convenient for their purpose.

There is no system of physic for constitutional distempers; the cure must come from hygienic processes. Such processes are at work; unmistakable indications appear of a return to normal politics. Party discipline is being restored and public control over the agencies of government is being asserted. Presidential initiative is resuming its proper place in our political system, under the compulsion of necessities which can not be evaded or disclaimed and which demand the full exercise of the power and influence of the presidential office in the direction and management of the public business. The new responsibilities which have devolved upon the nation, however they may be treated and whatever their results may be, will certainly augment this constraint of necessity which has been the cause of every advance in constitutional development, beginning with the adoption of the constitution itself, and such a powerful stimulus to effort can hardly fail to promote the formation of a settled type of government and the harmonious adaptation of its functions to the national character.

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